

Message Text

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ACTION L-03

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C O N F I D E N T I A L JAKARTA 9851

E.O. 11652: GDS
TAGS: PINS, ID
SUBJECT: WAIVER OF INDONESIAN BANK SECRECY LAWS

REF: (A) JAKARTA 7940, (B) STATE 140661

1. SUMMARY: THE REQUEST FOR WAIVER IS WORKING ITS WAY THROUGH THE GOI BUREAUCRACY. A DECISION ON IT WILL PROBABLY ULTIMATELY BE MADE AT A HIGH LEVEL WITHIN THE GOVERNMENT AND POSSIBLY NOT FOR SOME TIME. END SUMMARY.

2. AFTER DELIVERY OF DIPLOMATIC NOTE REQUESTING GOI WAIVER OF ITS BANK SECRECY LAWS IN CONNECTION WITH DOJ INVESTIGATION OF SALE OF INDONESIAN DOMSAT, EMBOFF CONTACTED DEPT OF FINANCE. OFFICIAL THERE WAS ABLE TO SAY NO MORE THAN THAT MINISTER WARDHANA WAS AWARE OF THE REQUEST AND THAT THE DEPT WAS "WORKING ON IT". FYI: IN THE MARGIN OF THE DIPLOMATIC NOTE WARDHANA IS REPORTED TO HAVE QUESTIONED WHETHER THE USG WOULD BE PREPARED TO OFFER RECIPROCITY SHOULD THE GOI AGREE TO WAIVE ITS LAWS. OUR CONTACT WAS UNAWARE OF ANY CURRENT OR PENDING GOI INVESTIGATION WHICH MIGHT REQUIRE GOI ACCESS TO US BANKING OR OTHER REOCRDS SO HE PRESUMED THE MINISTER'S QUESTION WAS IN THE ABSTRACT. END FYI IN A FOLLOW-UP CONVERSATION EMBOFF WAS TOLD THAT CONTRARY TO EARLIER ASSERTION THAT THE REQUEST WAS BEING EXPEDITED, FINANCE COULD DO NOTHING
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UNTIL OFFICIALLY REQUESTED BY DEPT FON AFF, AND THAT SUCH A REQUEST HAD NOT YET BEEN MADE.

3. FON AFF'S DIRECTOR OF LEGAL AFFAIRS HASYIM DJALAL TOLD EMBOFF HE HAD MADE A FAVORABLE RECOMMENDATION ON THE USG REQUEST, BUT THAT OTHERS IN HIS DEPT HAD POSED LEGAL PROBLEMS YET TO BE OVERCOME. DJALAL EXPLAINED

THAT ONLY FINANCE COULD WAIVE THE LAWS, AND THEN ONLY WHEN IT HAD BEEN SO REQUESTED BY THE ATTORNEY GENERAL OR A CERTAIN COURT IN RELATION TO A SPECIFIC CASE. HOWEVER, THE COURT IS NOT NOW IN SESSION AND THE ATTORNEY GENERAL HAS NO CASE UPON WHICH TO BASE SUCH A REQUEST. THE STRICT CONSTRUCTIONISTS THUS ARGUE THE WAIVER CANNOT BE GRANTED, BUT DJALAL ASSURED EMBOFF THAT HE IS SEEKING A METHOD OF BASING THE REQUEST ON A DIPLOMATIC NOTE AND THAT IN ANY CASE THE DECISION WILL BE MADE AT HIGHER LEVELS ON POLITICAL GROUNDS.

4. DJALAL SAID THAT IN ADDITION TO FINANCE, FOREIGN AFFAIRS AND ATTORNEY GENERAL, INVOLVEMENT OF BANK INDONESIA, AND, POSSIBLY, KOPKAMTIB (COMMAND FOR RESTORATION OF SECURITY AND ORDER) WOULD ALSO BE REQUIRED. HE SAID THE NEXT STEP WOULD PROBABLY BE AN INTERDEPARTMENTAL MEETING. FROM THERE THE USG REQUEST WOULD APPARENTLY GO FOR RESOLUTION TO POLCOM MEETING, CHAIRED BY GEN. PANGGABEAN, MINISTER OF STATE FOR POLITICAL AND SECURITY AFFAIRS. DJALAL WAS UNABLE TO ESTIMATE HOW SOON A DECISION MIGHT BE MADE, BUT WE WOULD GUESS THAT IT WOULD BE AT LEAST ANOTHER MONTH AND POSSIBLY MUCH LONGER.
GARDNER

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